

REMARKS

In the Office Action, claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schena et al. (U.S. Patent No. 6,166,723), in view of Gordon et al (U.S. Patent No. 6,281,882), and further in view of Adan et al. (Published U.S. Application 2002/0054023, hereinafter Adan).

Adan does not qualify as prior art under 35 U.S.C. § 103 because the subject matter of Adan and the claimed invention were, at the time the claimed invention was made, subject to an obligation of assignment to the same person. Specifically, both applications were subject to assignment to Microsoft Corporation as evidenced by the fact that both applications are currently assigned to Microsoft Corporation. (See the assignments at Reel/Frame 010049/0349 and 9594/0917, the later being the assignment for the parent application of Adan).

In addition, Adan was published after the filing date of the present application. As such, Adan only qualifies as prior art against the present application under 35 U.S.C. § 102(e). Because of the common assignment and the fact that Adan is only prior art under 35 U.S.C. § 102(e), Adan cannot be used as prior art under 35 U.S.C. § 103. (35 U.S.C. § 103(C)(1)).

Since Adan cannot be used as prior art under 35 U.S.C. § 103, the limitations of claim 12 are patentable over the cited art. These limitations have been added to claims 1 and 7. As such, claims 1 and 7 and claims 3, 5, 6, and 9-11, which depend therefrom, are patentable over the cited art.

With the present amendment, claims 9 and 11 have been amended to change their dependency or to make them agree with the changes made to claims 1 and 7. Claims 8, 12, 14, 16-18, and 25-31 have been canceled so that the remaining claims may be allowed.

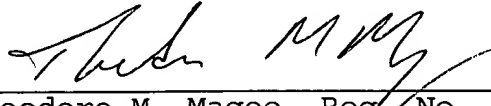
In light of the above remarks, reconsideration and allowance of the claims is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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